

Remarks given at mid-winter NH Bar meeting
By Chief Justice John T. Broderick, Jr.
February 16, 2006

I appreciate the opportunity to speak to all of you this afternoon and am honored as you are that ABA President Mike Greco is with us. His service to the profession has been outstanding and I look forward to his remarks.

When I became Chief Justice in 2004, I announced my commitment to do all I could to make justice in New Hampshire more accessible, affordable and understandable for all of our citizens. With the cooperation of my judicial colleagues at the Supreme Court and throughout the system and with the help and encouragement of many of you, we are making real progress.

At the end of the day, however, if those in poverty or near poverty do not have meaningful access to the courts, the judicial system will not have fulfilled its constitutional obligation or the fundamental promise of our republic. Equal justice under law is not achievable if poverty barricades the doors to our courthouses and allows some, but not all of our citizens, a fair and impartial forum to redress their grievances. Neither will it be achieved if we do not assume ownership.

The challenge we confront as judges and lawyers is not ours alone. I recognize that. Government has a responsibility, too. In the last legislative session about \$1,000,000 was appropriated to help legal assistance in the north country, Nashua and statewide. That represents a huge step forward and is a legislative recognition of the unmet need. But it seems to me that those of us whose chosen profession breathes life into the promises of the constitution have a special responsibility and unique skills to open the doors to our courthouses as wide as possible and to advocate for others to help us.

Some of you in this room have devoted countless hours to the legal services community and its mission. You have witnessed the need and responded. You are to be congratulated, recognized and emulated. Many members of our profession have stood tall to advocate maximum funding for legal assistance over the years and stood watch for the interests of the poor when the national conscience was falling asleep. Jon Ross and Mike Greco are two such people. Their example has inspired many others.

The New Hampshire bar has a distinguished history of service to the disadvantaged and for many, pro bono has been more a privilege than an obligation. Our bar stands taller than many others around the country in addressing the legal needs of the poor, but the justice gap is widening and we are called to do more. In my view, the proper comparison is not to what others are doing but to the needs we are not serving in our own state. Those who run legal services here tell me that only half of the New Hampshire lawyers who are eligible to do pro bono cases are actually doing them. Where is the other half? Why haven't those lawyers pitched in to represent someone in need of legal help? Too many of us remain on the sidelines.

From a financial perspective, I am told that only 15 percent of the more than 5,000 lawyers who are licensed to practice in New Hampshire, contributed to the Campaign for Legal Services, the major fundraising effort launched in 2002 to make sure, as they described it that “our courthouse doors remain open to all of our citizens.” I commend those generous law firms and lawyers who supported this effort to raise more than \$1.1 million in just four years. But many, many more lawyers and law firms could be involved and need to be involved. As it is, studies have shown that across the nation, only 20% of the legal needs of our poverty or near poverty population are being met. We need to move the needle -- and we need to move it sooner as opposed to later.

When I was in private practice, I too often failed to meet my obligations to the poor in need of a guide or an advocate. I am not proud of that, so when I had the opportunity in 1993 to serve on the board of the national Legal Services Corporation. I gladly took it. My nine years on the Board fundamentally changed my focus and opened my eyes. I gained a new respect for those who devote their professional lives to serving the legal needs of the poor, often against an outgoing tide – and for the busy lawyers in private practice who have not forgotten the public trust associated with their admission to the Bar. I also had the privilege to witness the dignity and hope that both fulltime and pro bono lawyers brought to impoverished lives all across our country. I am not here today to be critical. I would be the last one in the room entitled to be. I am here today to ask for your help. Your help is desperately needed.

Let me tell you about the people I am asking you to help, the people who qualify for legal services, your fellow citizens. In our state more than 162,000 residents are living at or below 125% of the federal poverty guidelines. For a family of three that means \$20,750 a year. In all, over 300,000 New Hampshire residents, almost a quarter of our population, live at 200% of the poverty guidelines or less. For a family of three, that means living on \$33,200 a year, or less. Approximately a third of that number are children and almost 12% are elderly. If we do not take an interest in giving the least among us a full measure of justice, then I ask you who is likely to? My heartfelt plea to all of you here today is to register with the pro bono program and take at least one case this calendar year. One case. That rising tide would lift many boats. It's no excuse in my view that you are not an expert in every facet of the law. The impoverished and unskilled client will do much better with you than without you and there is no rule that says you cannot learn or be assisted by someone more knowledgeable.

There's someone here today that I would like to recognize for her efforts. Sally Rule was admitted to the N.H. Bar in 2000 and is now with the legal department of N.H. Ball Bearings. Sally is a business lawyer. That hasn't stopped her from being willing and able to represent low-income clients in both domestic violence and consumer matters over the last five years. I want to ask Sally to stand up so we can thank her for her contributions.

If you can't or won't take a pro bono case, I ask you to support legal assistance in other ways. No help is unimportant and none will be rejected.

Through ADR, the unbundling of civil legal services allowing for limited representation, a rule the Supreme Court adopted yesterday, case managers, a self-help website, pro se protocols and the volunteer efforts of lawyers at some of our courthouses, especially in Nashua, the judicial system is trying to respond to a growing need. We have not been as vigilant as we should have been but that is changing and will continue to improve. I need your help to ensure greater progress. As a result of a meeting in December at the Supreme Court with representatives of the legal services community, the Supreme Court will soon formally announce the creation of a permanent Access to Justice Commission to enhance our focus and increase our collaboration on the legal needs of the poor and how best to address them. Chief Judge Steven McAuliffe of the United States District Court and my colleague, Justice Duggan, have agreed to co-chair it.

Last fall Justice Dalianis and I attended a national conference in Minneapolis which was convened to examine the needs of children languishing in foster care as a result of abuse and neglect. A retired judge who had spent his entire professional life dealing with children in the courts, challenged us to look at the way courts handle abuse and neglect and to examine the foster care system through the eyes of a child. From that vantage point, all of us left Minnesota with a renewed urgency and a commitment to change what we could.

This afternoon in this place, I ask all of you to look at the justice system through the indignity of poverty and the seeming hopelessness of needing help but not being able to afford it. Of all things, access to justice should not be beyond the reach of any of our citizens. It doesn't need to be.

I would like it said years from now that during our collective watch no one was turned away and that the dignity of all who sought justice was respected and that the courts were truly open. If we work together, if we all strive harder – the courts included, all things are possible. If nothing changes, the justice system will be less respected and rendered less relevant to more and more of our citizens. In my judgment no one wins if we let that happen. The choice is ours and both public trust and personal pride demand that all of us do more. On behalf of the judicial system I am committed to moving the needle but I need your help.

In the ensuing weeks I hope all of us can begin a new dialogue on effectively addressing the legal needs of the poor and that all of you will feel a responsibility to participate. Over the next month, I will be meeting with groups of lawyers at the Supreme Court to talk informally about how we can better work together to address unmet legal needs. In fact, yesterday I met with almost all the managing partners of the thirty largest firms in New Hampshire. I hope to be able to report on real progress by the time this association meets in June. The integrity of our profession and the core mission of the judicial system are depending on our success. I'm hopeful that I can count on all of you and so are a lot of desperate people who need your skill and wisdom.